

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

PEGGI S. M.,

Plaintiff,

vs.

ANDREW M. SAUL, Commissioner of
Social Security,

Defendant.

CV 19-19-BU-BMM

**ORDER ADOPTING MAGISTRATE
JUDGE’S FINDINGS AND
RECOMMENDATIONS**

Plaintiff filed a Complaint on May 2, 2019, seeking judicial review of an unfavorable decision by the Commissioner of Social Security (“Commissioner” or “Defendant”). (Doc. 2.) United States Magistrate Judge Kathleen L. DeSoto issued Findings and Recommendations on December 13, 2019. (Doc. 15.) Judge DeSoto recommends that the Court affirm the Commissioner’s decision denying Plaintiff’s claims for disability insurance benefits and supplemental security income benefits. (*Id.* at 21.) Judge DeSoto also recommends that the Court deny Plaintiff’s motion

for summary judgment (Doc. 10). (Doc. 15 at 21.) Plaintiff filed an objection to Judge DeSoto's Findings and Recommendations on December 30, 2019. (Doc. 16.)

The Court reviews de novo those Findings and Recommendations to which a party timely objected. 28 U.S.C. § 636(b)(1). The Court reviews for clear error the portions of the Findings and Recommendations to which the party did not specifically object. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Where a party's objections constitute perfunctory responses argued in an attempt to engage the district court in a reargument of the same arguments set forth in the original response, however, the Court will review the applicable portions of the Findings and Recommendations for clear error. *Rosling v. Kirkegard*, 2014 WL 693315, *3 (D. Mont. Feb. 21, 2014) (internal citations omitted).

A court may set aside the Commissioner's decision only if the decision "is not supported by substantial evidence or is based on legal error." *Treichler v. Commissioner of Social Sec. Admin.*, 775 F.3d 1090, 1098 (9th Cir. 2014) (quoting *Andrews v. Shalala*, 53 F.3d 1035, 1039 (9th Cir. 1995)). To qualify for benefits under the Social Security Act, a claimant bears the burden of proving that: (1) she suffers from a medically determinable physical or mental impairment that has lasted or can be expected to last for a continuous period of twelve months or more;

and (2) the impairment renders the claimant incapable of performing past relevant work or any other substantial gainful employment that exists in the national economy. 42 U.S.C. §§ 423(d)(1)(A), 423(d)(2)(A). An Administrative Law Judge found that Plaintiff was not disabled (Doc. 6 at 29) and Judge DeSoto recommends that the Court affirm the Administrative Law Judge's determination (Doc. 15 at 21).

Plaintiff objects to Judge DeSoto's Findings and Recommendations. (Doc. 16.) Plaintiff advances the same arguments in her Objections (Doc. 16) that she previously made in her Complaint (Doc. 2) and in her Opening Brief (Doc. 10). Judge DeSoto considered those arguments in making her recommendation to the Court. The Court finds no specific objections that do not attempt to relitigate the same arguments as before. The Court reviewed Judge DeSoto's Findings and Recommendations (Doc. 15), therefore, for clear error. *See Rosling*, 2014 WL 693315, at *3. The Court finds no error.

Accordingly, **IT IS ORDERED** as follows:

1. Judge DeSoto's Findings and Recommendations (Doc. 15) are **ADOPTED IN FULL**.
2. Plaintiff's motion for summary judgment contained in her Opening Brief (Doc. 10) is **DENIED**.

3. The Commissioner's decision denying Plaintiff's claims for disability insurance benefits and supplemental security income benefits is **AFFIRMED**.

4. The Clerk of Court is directed to close this matter and enter judgment in favor of Defendant and against Plaintiff.

DATED this 23rd day of January, 2020.



Brian Morris
United States District Court Judge